

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

BERNATELLO'S PIZZA, INC.,

Plaintiff,

v.

HANSEN FOODS, LLC,

Defendant.

PRELIMINARY INJUNCTION

16-cv-65-jdp

Pursuant to the court's March 25, 2016, order, Dkt. 26, IT IS ORDERED that:

- (1) Hansen Foods, LLC (Hansen) is preliminarily enjoined from:
 - a. Using the names BREWHAUS, BREW TIME, and any other names or marks that incorporate BREW or a confusingly similar mark, in connection with frozen pizza, except as permitted in paragraph 2 below.
 - b. Advertising, marketing, or referring to BREWHAUS, BREW TIME, and any other names or marks that incorporate BREW or a confusingly similar mark, in connection with frozen pizza, except as permitted in paragraph 2 below.
- (2) This preliminary injunction will take effect immediately. But Hansen will be permitted an eight-week phase-out period to exhaust its inventory and to allow for an orderly transition to a new brand name, as follows:
 - a. Hansen may continue to sell BREWHAUS and BREW TIME pizzas during the eight-week phase-out period only in stores and other sales venues that committed to carrying each respective brand prior to entry of the court's March 25, 2016, order.

- b. After eight weeks from the date of this order, Hansen will be enjoined from selling pizzas using the names BREWHAUS, BREW TIME, and any other names or marks that incorporate BREW or a confusingly similar mark, with the exception of secondary market sales as identified in paragraph 2(g) below.
- c. Hansen may continue manufacturing BREWHAUS pizzas for six weeks from the date of this order as needed to maintain store inventory during the phase-out period.
- d. During the phase-out period, Hansen will maintain its customary prices, including customary periodic discounts.
- e. Hansen may continue to honor its existing sales and promotional agreements with retail partners for the BREWHAUS and BREW TIME pizzas for the next six weeks.
- f. For the last two weeks of the eight-week phase-out period, Hansen may sell BREWHAUS and BREW TIME pizzas at special discounts using unadvertised in-store temporary price reductions.
- g. After the eight-week phase-out period, Hansen may relabel remaining BREWHAUS and BREW TIME pizzas or sell them on the secondary market.
- h. In advertising and promoting any new brands of pizza, Hansen may not use the names BREWHAUS or BREW TIME as “tie-ins” or for any other use.

- (3) Plaintiff Bernatello's Pizza, Inc. will have thirty (30) days from the date of this order to post security in the amount of \$150,000.

Entered April 20, 2016.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge